

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**SOFIA ZELDIN & BORIS ZELDIN,**

**Index No.: 07 CV 9608**

**Plaintiffs**

**DEFENDANTS' INITIAL  
RULE 26 DISCLOSURE**

**- against -**

**DAISUKE NONAKA, M.D., DAVID ROTH, M.D.,  
Ph.D, MAX M. COHEN, M.D., ZINMIN ZHANG,  
M.D., and NYU MEDICAL CENTER,**

**Judge Baer**

**Defendants.**

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**S I R S:**

**PLEASE TAKE NOTICE**, that the defendants, DAISUKE NONAKA, M.D., DAVID ROTH, M.D., Ph.D, MAX M. COHEN, M.D., ZINMIN ZHANG, M.D. and NYU MEDICAL CENTER, by their attorneys, Bartlett, McDonough, Bastone & Monaghan, LLP, do provide, pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, an initial disclosure, upon information and belief as follows:

1. The defendants state that the following people may have discoverable information relating to this matter:
  - a. The defendants incorporate by reference the names, addresses and phone numbers provided by the law firm of Kreindler & Kreindler in their November 30, 2007 "Response to Disclosure No. 1".
  - b. Other medical professionals associated with and/or employed by NYU Hospitals to be determined. At this time, however, those individuals, in addition to those

individuals named in “a” above, whose names and/or signatures may be contained in the medical records from NYU, are at this time unknown and are also unknown to have any additional discoverable information which is not cumulative. However, if any such individual is determined to exist and have additional discoverable information, their information will be provided pursuant to this Rule once identified.

- c. Other employees of defendant NYU Hospitals Center to be determined in accordance with “b” above.
2. The defendants are unaware of the existence of any documents, data compilations or tangible things which are not already in the possession of plaintiffs’ counsel and have been provided as noted in Kreindler & Kreindler’s Response to Disclosure No. 2 of November 30, 2007. Regarding the plaintiff’s First Request for Production of Documents dated March 20, 2008, a response to that demand is being made under separate cover. Otherwise, the defendants are unaware at this time of the existence of any further documents, data compilations or tangible things which are discoverable and admissible pursuant to this Rule.
3. As for a computation of damages, such disclosure is to be provided by the plaintiffs along with supporting documentation. To date, we have only received plaintiffs’ categorization of such damages but no computations or supporting data, including past medical expenses which the plaintiffs indicate are being assembled. Nonetheless, we anticipate rebutting any such damages claimed by the plaintiff regarding past medical expenses, future medical expenses, past economic loss, future economic loss, past pain and suffering, future pain and suffering, past loss of consortium and past loss of services, future loss of services, future loss of consortium, past loss of enjoyment of life and future loss of enjoyment of life. Regarding

future medical expense, past loss of services, future loss of services, past economic loss and future economic loss, the defendants will also respond accordingly at the appropriate time pursuant to the Court's order regarding expert disclosure .

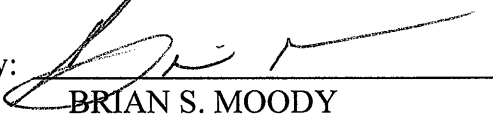
4. Upon information and belief, all defendants were covered under a policy of insurance applicable to the claims in this action. A more formal and specific response regarding such coverage will be provided under separate cover.

PLEASE TAKE FURTHER NOTICE, that the responding defendants reserve their right to supplement and/or amend the above responses up to and including the trial of this matter.

Dated: Mineola, New York  
April 28, 2008

Yours, etc.  
BARTLETT, MCDONOUGH, BASTONE  
& MONAGHAN LLP

By:

  
BRIAN S. MOODY

Attorneys for Defendants  
300 Old Country Road  
Mineola, New York 11501  
(516) 877-2900  
BMBM File No. 130-257

TO: KREINDLER & KREINDLER LLP  
Attorneys for Plaintiffs  
100 Park Avenue  
New York, New York 10017  
(212) 687-8181

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK                    )  
  ss.:  
COUNTY OF NASSAU                 )

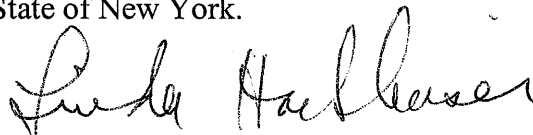
Linda Hochheiser, being duly sworn, deposes and says: that deponent is not a party to the action, is over 18 years of age and resides at Suffolk County, New York.

That on the 29<sup>th</sup> day of April, 2008, deponent served the within

**DEFENDANTS' INITIAL RULE 26 DISCLOSURE**

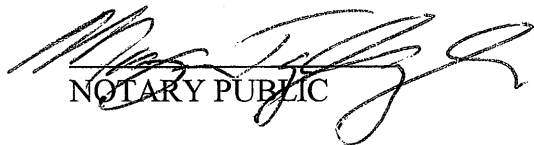
upon: KREINDLER & KREINDLER, LLP  
Attorneys for Plaintiffs  
100 Park Avenue  
New York, New York 10017  
Tel.: (212) 687-8181

at the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.

  
\_\_\_\_\_  
Linda Hochheiser

Sworn to before me this

29<sup>th</sup> day of April, 2008

  
NOTARY PUBLIC

MARYANN TAGLIAGAMBE  
NOTARY PUBLIC, State of New York  
No. 01TA6091197  
Qualified in Nassau County  
Commission Expires 04/23/2011